

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento CA 95814



September 21, 1987

ALL COUNTY LETTER NO. 87-129

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPACT OF HAGER v. McMAHON ON AFDC-FG AND FOSTER CARE

The Hager v. McMahon lawsuit challenged the State Department of Social Services' (SDSS) authority to deem the income of a nonrelated legal guardian to the minor parent and the minor parent's child, when the minor parent is receiving AFDC-FC and the dependent child is receiving AFDC-FG.

On July 27, 1987, the Superior Court of Los Angeles County issued a peremptory writ of mandate in this case. The Court has determined that the state has misinterpreted 42 USC 602 (a)(39) and that it is inappropriate for the state to apply the deeming requirements to the income of unrelated legal guardians when the minor parent is receiving FC and the dependent child is receiving AFDC-FG. Specifically, the court order requires the SDSS to immediately cease enforcement of MPP 44-133.7 insofar as these regulations require deeming income of the nonrelated legal guardian to: (1) the minor parent with regard to his/her eligibility for state AFDC-FC and (2) the child of the minor parent with regard to the child's eligibility for AFDC-FG. A copy of the order is attached.

The Foster Care Program Bureau has revised the deeming policy as it affects AFDC-FC applicants/recipients; it is no longer appropriate, under any circumstances, to apply MPP 44-133.7 to AFDC-FC eligibility or grant determination.

Therefore, CWDs are instructed to immediately cease applying MPP 44-133.7 to AFDC-FC eligibility or grant determinations. Furthermore, effective the date of this letter and in accordance with the Hager v. McMahon order, MPP 44-133.7 will be set aside in determining eligibility or the amount of the aid payment for a dependent AFDC-FG child living with his/her AFDC-FC minor parent and the parent's nonrelated legal guardian. These regulations will be amended to reflect the mandates of the court order.

If you have any questions regarding the revised AFDC-FC deeming policy or the application of MPP 44-133.7 in cases where the minor parent residing with a nonrelated legal guardian receives AFDC-FC, please contact Vicki Anthony of the Foster Care Program Bureau at (916) 445-0813 or ATSS 485-0813. If you have any questions regarding the application of MPP 44-133.7 to AFDC-FG cases, please call Jim Mullany at (916) 324-2661 or ATSS 454-2661.


ROBERT A. HOREL
Deputy Director

cc: CWDA

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2 ROBERT D. NEWMAN
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12 Telephone: (208) 577-3811

13 Attorneys for Petitioners

14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 ONETA HAGER, KATRINA TUCKER)

17 CASE NO. C 608 617

18 Petitioner and Plaintiffs)

19 PEREMPTORY WRIT OF MANDATE
20 [C.C.P. §§ 1085 and 1094.5]

21 -vs-

22 LINDA McMAHON, Director,
23 Department of Social
24 Services,

25 Respondent and Defendant.)
26)
27)
28)

29 TO: LINDA McMAHON, RESPONDENT:

30 After hearing and determination by this Court that you
31 have abused your discretion and failed to perform your legal
32 duty, judgment having been entered in this proceeding ordering
33 that a peremptory writ of mandate issue under the seal of this
34 Court.

35 THEREFORE you are commanded, immediately upon receipt of
36 this writ, to perform the following acts:
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1 1. To set aside your decision dated July 24, 1985, in the
2 proceedings entitled In The Matter of Claimant Hager, State
3 Hearing Nos. 85091040 and 85093100; to enter a new decision
4 awarding petitioners retroactive benefits which will restore to
5 them the benefits which they would have otherwise received but
6 for your wrongful actions; and to take such further
7 proceedings, such as calculation of retroactive benefits,
8 consistent with this peremptory writ of mandate.

9 2. To cease enforcement of Department of Social Services
10 Manual of Policies and Procedures Eligibility and Assistance
11 Standards § 44-133.7 insofar as this regulation requires
12 deeming of income of non-relative legal guardians to the minor
13 mother with regard to her eligibility for State funded AFDC-
14 Foster Care benefits and insofar as the regulation also
15 requires deeming of income of non-relative legal guardians to
16 the child of the minor mother with regard to the child's
17 eligibility for AFDC-Family Group benefits.

18 3. To provide State funded AFDC-Foster Care benefits to
19 eligible needy children without reducing or denying these
20 benefits by deeming as available to these children the income
21 of non-relative legal guardians.

22 4. To provide AFDC-Family Group benefits to eligible
23 needy children without reducing or denying these benefits by
24 deeming as available to these children the income of non-
25 relative legal guardians of the minor mothers of these eligible
26 needy children.

1 YOU ARE FURTHER COMMANDED to serve and file a written
2 return to this Writ on or before 8/27, 1987.

3 WITNESSED the Honorable Jerry K. Fields, Judge of the
4 Superior Court.

5 Dated: JUL 30 1987

6 FRANK S. ZOLIN, County Clerk



7 _____, Clerk
8 By: J. Yapkowicz, Deputy
9 J. YAPKOWITZ

10
11 APPROVED AS TO FORM:

12 John K. Van De Kamp
13 Anne S. Pressman
14 John H. Sanders

15 By John H. Sanders
16 JOHN H. SANDERS
17 Attorney for Respondent
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